IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

SARAH ARNSON, et al., Plaintiffs, vs. MY INVESTING PLACE L.L.C., et al., Defendants.	**ORDER GRANTING MOTION TO STRIKE DOCKET NO. 139** Case No: 2:09-CV-254 DB District Judge Dee Benson Magistrate Judge David Nuffer

Plaintiffs have filed a motion to strike[1] a document filed by Defendant James Shirato who is proceeding pro se in this case. No opposition to the motion has been filed.

Shirato's document,[2] which was apparently filed in response to the second amended complaint, consists of a one-page, hand-written cover letter addressed "To Whom It May Concern" with attached copies of the summons and complaint. Although this untitled document may have been intended by Shirato as an answer to the second amended complaint, the court finds that it is inadequate to constitute an answer and, therefore, strikes it, for the reasons discussed below.

Rule 8 of the Federal Rules of Civil Procedure governs the form and content of an answer filed in federal court. In answering a complaint, a party must "state in short and plain terms its defenses to each claim . . . and admit or deny the allegations asserted against it by an opposing

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[1] Motion to Strike Docket No. 139, docket no. 147, filed September 27, 2010.

[2] Docket no. 139, filed September 1, 2010.

party."[3] The rule further states that "[a] denial must fairly respond to the substance of the allegation."[4]

In the one-page cover letter, Shirato simply states that neither he nor the corporate defendants are guilty of any of the accusations in the complaint. In addition, Shirato has highlighted and underlined portions of the amended complaint and added comments in the margins. However, these notations do not provide a "short and plain" statement of Shirato's defenses to each claim and do not "fairly respond to the substance" of each allegation. In short, Shirato's filing does not meet the requirements of Rule 8(b). Because Shirato's filing does not suffice as an answer to the complaint, the court strikes the filing as an insufficient defense pursuant to Rule 12(f)(2).

In the document at issue, Shirato also apparently attempts to answer the complaint for several of the business-entity defendants. As plaintiffs point out, however, a business entity may not appear in federal court pro se, but instead must be represented by a licensed attorney.[5] Shirato states that he is the president of the corporate entities. However, it is well-established that "a corporation or other business entity can only appear in court through an attorney and not through a non-attorney corporate officer appearing pro se."[6] Because Shirato has not entered an appearance as a licensed attorney, he may not represent the corporate defendants in this case.

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[3]Fed. R. Civ. P. 8(b)(1).

[4]Fed. R. Civ. P. 8(b)(2).

[5]*Tal v. Hogan*, 453 F.3d 1244, 1254 & no.8 (10th Cir. 2006).

[6]*Harrison v. Wahatoyas, LLC*, 253 F.3d 552, 556 (10th Cir. 2001).

The court notes that a Third Amended Complaint has been filed in this case.[7] Shirato and the other defendants, including the corporate defendants, must file an answer or other appropriate respond to the Third Amended Complaint. The court cautions the business-entity defendants that they must obtain counsel to represent them in responding to the Third Amended Complaint.
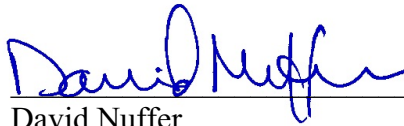
ORDER

Plaintiffs' Motion to Strike Docket No. 139[8] is **GRANTED**. Docket no. 139 is hereby **STRICKEN** from the record.

Defendants James Shirato; Indian Ridge Real Estate Group, Inc.; Indian Ridge Realtors, Inc.; Indian Ridge Resort Community; Indian Ridge Resort, Inc. a/k/a The Resort Hotel at Silver Dollar City, Inc., a/k/a The Resort Hotel on Table Rock Lake, Inc.; Indian Ridge Resort II, Inc.; Indian Ridge Resort III, Inc.; Indian Ridge Resort IV, Inc.; Indian Ridge Resort V, Inc. are given until November 23, 2010 to file an answer or otherwise respond to the complaint.

November 1, 2010.

BY THE COURT:

David Nuffer
U.S. Magistrate Judge

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[7]Docket no. 154, filed October 25, 2009.

[8]Docket no. 147, filed September 27, 2010.